

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Antonio Colbert,

Plaintiff,

v.

Case No. 1:11cv131

Cincinnati Police Department,

Judge Michael R. Barrett

Defendant.

ORDER

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on March 7, 2011 (Doc. 10).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The Court notes, however, that though such notice was served upon Plaintiff, it was returned to the Court due to Plaintiff's failure to apprise the Court of his change of address. By failing to keep the Court apprised of his current address, Plaintiff demonstrates a lack of prosecution of his action. *See Theede v. United States Department of Labor*, 172 F.3d 1262, 1265 (10th Cir. 1999) (failure to object to a magistrate judge's Report and Recommendation due to delay resulting from party's failure to bring to the court's attention a change in address constitutes failure to object in a timely manner); *see also Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991) (*pro se* litigant has an affirmative duty to diligently pursue the prosecution of his cause of action); *Barber v. Runyon*, No. 93-6318, 1994 WL 163765, at *1 (6th Cir. May 2, 1994) (*pro se* litigant has a duty to supply the court with notice of any and all changes in his address). No objections

to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter *de novo* pursuant to 28 U.S.C. § 636, this Court finds the Magistrate Judge's Report and Recommendation to be correct.

Accordingly, it is **ORDERED** that the March 7, 2011 Report and Recommendation of the Magistrate Judge (Doc. 10) is hereby **ADOPTED**. Plaintiff's complaint shall be dismissed for failure to state a claim. This case shall be **CLOSED** and **TERMINATED** from the docket of this Court.

With respect to any application by Plaintiff to proceed on appeal *in forma pauperis*, the Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of this Order would not be taken in "good faith," and therefore the Court **DENIES** any application by petitioner to proceed on appeal in *forma pauperis*.

IT IS SO ORDERED.

/s/ Michael R. Barrett
Michael R. Barrett
United States District Judge